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HUMAN RIGHTS COMMITTEE
Seventy-fourth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Georgia

1. The Committee considered the second periodic report of Georgia (CCPR/C/GEO/2000/2) at its 1986th and 1987th meetings (CCPR/C/SR.1986 and 1987), held on 18 and 19 March 2002. At its 2001st and 2002nd meetings (CCPR/C/SR.2001 and 2002), held on 28 March 2002, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the detailed report and its timely presentation by the State party. It regrets, however, that although information is provided on legislation relating to the Covenant obligations, the necessary information on the practical implementation of the Covenant is lacking.

B. Positive aspects

3. The Committee appreciates the significant progress achieved in Georgia since the submission of its previous report. That progress is the basis for a positive political, constitutional and legal framework for the implementation of rights enshrined in the Covenant.

4. The Committee commends the State party for its abolition of the death penalty and the ratification of the Second Optional Protocol to the Covenant.

5. The Committee welcomes the creation of the Rapid Reaction Group, the function of which is to visit police stations and other places of detention to carry out investigations promptly in response to complaints.

C. Principal subjects of concern and recommendations

6. The Committee expresses satisfaction at the creation of a Constitutional Court but it remains concerned that current procedures impede access to the Court.

The State party should reform the procedures for access to the Constitutional Court in order to guarantee full protection of the human rights enshrined in the Covenant.

7. The Committee expresses its concern at the still very large number of deaths of detainees in police stations and prisons, including suicides and deaths from tuberculosis. The Committee also remains concerned about the large number of cases of tuberculosis reported in prisons.

The State party should take urgent measures to protect the right to life and health of all detained persons as provided for in articles 6 and 7 of the Covenant. Specifically, the State party should improve the hygiene, diet and general conditions of detention of and provide appropriate medical care to detainees as provided for in article 10 of the Covenant. It should also ensure that every case of death in detention is promptly investigated by an independent agency.

8. The Committee remains concerned at the widespread and continuing subjection of prisoners to torture and cruel, inhuman or degrading treatment or punishment by law enforcement officials and prison officers.

The State party should ensure that all forms of torture and similar ill-treatment are punishable as serious crimes under its legislation, in order to comply with article 7 of the Covenant.

The State party should also set up an effective system to monitor the treatment of all prisoners, in order to ensure full protection of their rights under articles 7 and 10 of the Covenant.

The State party should also ensure that all complaints of ill-treatment are properly investigated by an independent authority, that those responsible are brought to justice and that victims are appropriately compensated.

Immediately upon first being deprived of liberty and during all stages of detention, free access to a lawyer and to doctors should be ensured.

All statements obtained by force from detained persons should be investigated and may never be used as evidence, except as evidence of torture.

The State party should provide training in human rights, particularly on the prohibition of torture, to police and prison officers.

9. The Committee is concerned at the length of the period (up to 72 hours) that persons can be kept in police detention and before they are informed of the charges against them. It is also concerned at the fact that, until the trial takes place, the accused cannot make a complaint before a judge regarding abuse or ill-treatment during the period of detention.

The State party should ensure that detainees are informed promptly of the charges against them, in accordance with article 9 of the Covenant. Detainees should be given the opportunity to make a complaint before a judge regarding any ill-treatment during the investigation phase, as required by articles 7 and 14 of the Covenant.

10. The Committee expresses its concern at the fact that a person may be detained and imprisoned or prevented from leaving his or her residence because of non-fulfilment of contractual obligations.

The State party should bring its civil and criminal legislation into line with articles 11 and 12 of the Covenant.

11. The Committee expresses its concern at the difficulties that detainees and persons charged with an offence have in gaining access to lawyers, particularly court-appointed lawyers. Although the law provides for the latter, budgetary problems are obstructing the enjoyment of this right.

The State party should ensure the full enjoyment of the right to be represented by a lawyer in accordance with article 14, paragraph 3 (d), of the Covenant; this includes appropriate budgetary provisions for an effective system of legal aid.

12. The Committee expresses its concern at the existence of factors which have an adverse effect on the independence of the judiciary, such as delays in the payment of salaries and the lack of adequate security of tenure for judges.

The State party should take the necessary measures to ensure that judges are able to carry out their functions in full independence, and should ensure their security of tenure pursuant to article 14 of the Covenant. The State party should also ensure that documented complaints of judicial corruption are investigated by an independent agency and that the appropriate disciplinary or penal measures are taken.

13. Although the Committee recognizes that some progress has been made in efforts to achieve equality for women in political and public life, it remains concerned at the low level of representation of women in Parliament and in senior public- and private-sector jobs.

The State party should take appropriate measures to fulfil its obligations under articles 3 and 26 in order to improve the representation of women in

Parliament and in senior positions in the public and private sectors as provided in article 3 of the Covenant. The State party should also consider measures, including educational ones, to improve the situation of women in society.

14. The Committee notes with concern that domestic violence against women remains a problem in Georgia.

The State party should take effective measures, including the enactment and implementation of appropriate legislation, training of police officers, promotion of public awareness and, in more concrete terms, human rights training to protect women against domestic violence, in accordance with article 9 of the Covenant. The State party should provide concrete information on the situation of domestic violence.

15. The Committee remains concerned at the continuation of practices which involve trafficking in women in Georgia.

The State party should take measures to prevent and combat this practice by enacting a law penalizing trafficking in women, and should fully implement the provisions of article 8 of the Covenant. The Committee recommends that preventive measures be taken to eradicate trafficking in women and provide rehabilitation programmes for the victims. The laws and policies of the State party should provide protection and support for the victims.

16. Although the Committee welcomes the appointment of an Ombudsman, it notes with concern that her functions are not clearly defined and her power to implement recommendations is limited.

The State party should clearly define the functions of the Ombudsman, ensure her independence from the executive, provide for a direct reporting relationship with the legislature, and give her authority in relation to other State agencies in accordance with article 2 of the Covenant.

17. The Committee notes with deep concern the increase in the number of acts of religious intolerance and harassment of religious minorities of various creeds, particularly Jehovah's Witnesses.

The State party should take the necessary measures to ensure the right to freedom of thought, conscience and religion as provided in article 18 of the Covenant. It should also:

(a) Investigate and prosecute documented cases of harassment against religious minorities;

(b) Prosecute those responsible for such offences;

(c) Conduct a public awareness campaign on religious tolerance and prevent, through education, intolerance and discrimination based on religion or belief.

18. The Committee expresses its concern at the discrimination suffered by conscientious objectors owing to the fact that non-military alternative service lasts for 36 months compared with 18 months for military service; it regrets the lack of clear information on the rules currently governing conscientious objection to military service.

The State party should ensure that persons liable for military service who are conscientious objectors can opt for civilian service the duration of which is not discriminatory in relation to military service, in accordance with articles 18 and 26 of the Covenant.

19. The Committee expresses its concern with respect to obstacles facing minorities in the enjoyment of their cultural, religious or political identities.

The State party should ensure that all members of ethnic, religious and linguistic minorities enjoy effective protection from discrimination and that the members of such communities can enjoy their own culture and use their own language, in accordance with article 27 of the Covenant.

20. The Committee is concerned at the harassment of members of non-governmental organizations, particularly those defending human rights.

The State party should ensure that non-governmental organizations can safely carry out their functions in a manner consonant with the principles of a democratic society.

D. Dissemination of information about the Covenant

21. The Committee requests the State party to publicize the text of these concluding observations in the appropriate languages and to ensure that the next periodic report is widely disseminated among the public at large, including non-governmental organizations active in Georgia.

22. Pursuant to article 70, paragraph 5, of the rules of procedure of the Committee, the State party is requested to transmit, within 12 months, information on measures adopted to deal with the issues raised in paragraphs 7, 8 and 9 of the present concluding observations.

23. The Committee requests the State party to submit its third periodic report by 1 April 2006.

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